might be reason in refusing all relief whatever to the present plaintiff, allowing him to rest on his neglected remedy. At all events, perhaps it may be said of the principal case that "the end justifies the means."

LANDLORD AND TENANT—HOLDING OVER AFTER TERM NOT RENEWAL OR EXTENSION OF LEASE.—Lease contained a covenant that if the lease were extended or renewed the lessee would reimburse the lessor for improvements made during the term. The lessee held over and the lessor elected to consider him a tenant from year to year and lessor sued to recover for improvements made. *Held,* holding over does not operate as an extension or renewal within the meaning of the lease. *Edward Hines Lumber Co.* v. *The American Car and Foundry Co.* (C. C. A., 7th Circ., 1919), 262 Fed. 757.

The court based its decision, partly at least, upon technical definitions of renewal and extension, and maintained that a holding over is not a renewal, for the word renewal implies the execution of a new lease. This view of a renewal is supported in *Leavitt* v. *Maykel,* 203 Mass. 506. But in *Raulet* v. *Cook,* 44 N. H. 512, it was decided that a renewal clause does not require the execution of a new lease, and in *The Insurance Co.* v. *The National Bank of Missouri,* 71 Mo. 60, the court doubted whether any distinction could be drawn between renewal and extension clauses and that neither required a new lease be executed. Still another position was taken in *Kollock* v. *Scribner,* 98 Wis. 104, where both extension and renewal clauses were regarded as contemplating the execution of a new lease. In the principal case the court further distinguishes a holding over from an extension on the ground that an extension in the absence of express stipulation involves a continuation of the tenancy for the same term. *Kollock* v. *Scribner, supra.* The second ground assigned by the court seems much more satisfactory and is based on more widely recognized rules of law. The terms renewal and extension imply a continuation of the relation springing out of express contract, while a holding over and the resulting tenancy from year to year has as its foundation not an express contract, since a notice by the tenant to the landlord will not prevent the creation of the tenancy, but has variously been described as a relation created by operation of law, *Mason* v. *Wierenga's Estate,* 113 Mich. 151, or by an implied condition of the lease. *Herter* v. *Mullen,* 159 N. Y. 28. The writer has been unable to find any case deciding the express point in issue. In *Right d. Flower* v. *Darby,* 1 Term Rep. 159, Lord Mansfield speaks of a holding over and the resulting tenancy as a "renovation" and a renewal of the agreement, and in *The Clinton Wire Cloth Co.* v. *Gardner,* 99 Ill. 151, the court says that by holding over there is a presumption of a renewal of the tenancy. However, these *dicta* were in no measure necessary or important to the decision and should hardly be regarded as controlling.

LANDLORD AND TENANT—TENANT DRAFTED—LIABILITY FOR RENT.—Defendant, being lessee of premises, was compelled to abandon same before the expiration of the term by reason of his being drafted and inducted into the United States Army. Plaintiff, the lessor, thereupon relet the premises for

the rest of the term at a lower rental, and now prosecutes this action to recover the difference. *Held,* no recovery can be had. *State Realty Co.* v. *Greenfield* (1920), 181 N. Y. S. 511.

The court cites and recognizes the rule of the early English case of *Paradine* v. *Jane,* Aleyn, 26, to the effect that "Where the law creates a duty or charge, and the party is disabled to perform it without any default in him, and hath no remedy over, there the law will excuse him, * * * but when the party by his own contract creates a duty or charge upon himself, he is bound to make it good, if he may, notwithstanding any accident by inevitable necessity, because he might have provided against it by his contract." But this rule, says the court, has no application where performance becomes impossible by a change of law or by reason of action taken under governmental authority. The opposite view is held in *London & Northern Estates Co.* v. *Schlesinger,* [1916] 1 K. B. 20, noted in 14 MICH. L. REV. 692, where the lessee, an Austrian, was interned. No reason appears why the decision in the instant case could not have been justifid upon the authority of *Gray* v. *Kaufman Dairy & Ice Cream Co.,* 162 N. Y. 388, 49 L. R. A. 580, wherein it is held that if the premises are relet by the lessor during the continuance of the original term a surrender by operation of law is thereby effected. But this point is not considered by the court, which bases its decision squarely upon the ground that the case under consideration forms an exception to the doctrine of *Paradine* v. *Jane.*

PUBLIC BUSINESS—COURT REVIEW OF REGULATION OF RATES.—By statute in Oklahoma, when any business is a virtual monopoly, and is such that the public must use it, or is of public consequence, or affects the community at large in ways named, it is declared to be a public business and subject to be controlled by the state, by the Corporation Commission, or by any district court of the state, as to rates, etc. Complainant sought to enjoin the Corporation Commission from an attempted regulation of rates for laundry work. *Held,* that a temporary injunction should be granted restraining the commission from enforcing any penalties, and that the federal district court should proceed with the suit to determine whether the rates fixed by the commission were confiscatory. *Oklahoma Operating Co.* v. *Love* (U. S. Sup. Ct., 1920), 40 Sup. Ct. 338.

This case is one of the numerous and still growing progeny of *Munn* v. *Illinois,* 94 U. S. 113, as modified by *Chicago, Milwaukee & St. Paul Ry. Co.* v. *Minnesota,* 134 U. S. 418, and many other cases. The decision in the instant case goes on the unconstitutionality of parts of the Oklahoma statute because the only method of judicial review of the findings of the commission which the statute provided is that arising in proceedings to punish for contempt. The party must first violate the order, so as to be cited for contempt, and then if he fails to purge himself he thereupon becomes liable to the penalties provided. Such a judicial review is not due process of law. Citing *Ex parte Young,* 209 U. S. 123, 147, and other cases. The actual decision on the above point seems far less interesting than the implications as to